

### **R E M A R K S**

Careful review and examination of the subject application are noted and appreciated.

### **SUPPORT FOR THE CLAIM AMENDMENTS**

Support for the claim amendments may be found in the specification, for example, on page 7 lines 2-13, page 7 lines 21-29 and FIGS. 5 and 6, as originally filed. Thus, no new matter has been added.

### **OBJECTION TO THE CLAIMS**

The objection to the use of "first number" and "second number" in claim 1 is respectfully traversed and should be withdrawn.

Claim 1 (see lines 4-5 above) provides that the first number is of answer options to each of the questions. An example application of the claimed first number is disclosed in the specification on page 7, lines 1-5 where the claimed first number of answer options would be 3 (e.g., yes, medium and no). Claim 1 (see line 9 above) provides that the second number is of values representing a level of risk. An example application of the claimed second number is disclosed in the specification on page 7, lines 20-25 where the claimed second number of values representing a level of risk would be 9 (e.g., a 9 point risk scale of an X-

axis). Therefore, one of ordinary skill in the art would understand that the claimed first number and the claimed second number represent separate quantities. As such, the objection to claim 1 should be withdrawn.

**CLAIM REJECTIONS UNDER 35 U.S.C. §103**

The rejection of claims 1-7, 9-16, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over Brown '493 in view of Bondy '139 and Papageorge '445 has been obviated in part by appropriate amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 8 and 17 under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Bondy, Papageorge and Mayer et al., U.S. Patent Pub. No. 2002/0010597 (hereafter Mayer) is respectfully traversed and should be withdrawn.

Brown concerns a monitoring system for remotely querying individuals (Title). Bondy concerns a method and apparatus for transforming a resource planning data structure into a scheduling data structure (Title). Mayer concerns systems and method for electronic health management (Title). Papageorge concerns a medical system for shared patient and physician decision making (Title).

The assertion in the Office Action, "having a means of automatically transforming data from one type of data structure

into another type of data structure", does not explicitly establish an apparent reason why one of ordinary skill in the art would have combined the elements of Brown and Bondy in the manner claimed. Furthermore, no evidence is provided that Brown would have a reasonable expectation of success if the data was transformed as proposed. Therefore, *prima facie* obviousness has not been established.

The assertion in the Office Action, "having a means of helping patients make informed decisions", does not explicitly establish an apparent reason why one of ordinary skill in the art would have combined the elements of Brown, Bondy and Papageorge in the manner claimed. No explanation or reasoning is provided why the selected features of Papageorge would be considered obvious to import into the proposed combination of Brown and Bondy. The selection of Papageorge appears to be based solely on the claim language, which is improper hindsight. Therefore, *prima facie* obviousness has not been established.

Furthermore, Brown, Bondy, and Papageorge appear to be non-analogous art based on U.S. classifications. The Office Action provides no evidence that the references are analogous. In contrast, the references appear to have been chosen using the claims as templates, which is improper hindsight. Therefore, *prima facie* obviousness has not been established. As such, the claimed

invention is fully patentable over the cited references and the rejections should be withdrawn.

Regarding claims 8 and 17, Mayer does not appear to be valid art. Mayer was filed on May 17, 2001, which is after the filing date of the present application. Therefore, Mayer is not prior art based on its filing date. Mayer does reference an earlier provisional application from May 2000. However, the Office Action does not establish that the material of Mayer relied upon in the rejections is properly supported in the provisional application in compliance with 35 U.S.C. §112, first paragraph (see MPEP §2136.03 III). As such, a *prima facie* obviousness has not been established and the rejection should be withdrawn.

Claim 1 provides a questionnaire generator for (i) generating a questionnaire comprising (a) one or more questions for determining an expression of risk for an individual and (b) a first number of answer options to each of the questions. In contrast, the language cited in the Office Action for the rejection of claim 1 is different than as claimed. For example, claim 1 does not provide "a questionnaire generator for (i) generating a questionnaire comprising (a) one or more questions for determining at least one of a physical condition of said individual, a mental condition of said individual, and a behavior of said individual...." Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or

suggest all of the limitations as claimed. Claim 10 provides language similar to claim 1.

Claim 1 further provides a database in a storage medium and indexed by (i) an aspect of care, (ii) an expression of risk and (iii) a level of risk. In contrast, the Office Action asserts that Brown does not teach an expression of risk. Furthermore, both Papageorge and Bondy appear to be silent regarding use of an expression of risk, a level of risk and an aspect of care to index a database. Therefore, Brown, Bondy and Papageorge, alone or in combination, do not appear to teach or suggest a database in a storage medium and indexed by (i) an aspect of care, (ii) an expression of risk and (iii) a level of risk as presently claimed. Claim 10 provides language similar to claim 1.

Contrary to the assertion on page 4 of the Office Action, the aspect of care, the expression of risk and the level of risk are functionally involved in (i) a profile generator in claim 1 and (ii) step (E) in claim 10. Therefore, the claimed features are relevant to the patentability of the claims. As such, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations.

Claim 1 further provides wherein the expression of risk concerns at least one of a physical condition of the individual, a mental condition of the individual, and a behavior of the individual. Despite the assertion in the Office Action, the text

in column 8 lines 44-47, column 8 lines 58-63 and column 9 lines 6-17 of Papageorge appears to be silent regarding the claimed definition of an expression of risk. Claim 10 provides language similar to claim 1. As such, the Office is respectfully requested to either (i) provide a clear explanation how one of ordinary skill would interpret the text of Papageorge to teach the claimed definition of an expression of risk or (ii) withdraw the rejection.

Claim 1 further provides a profile generator for (i) generating a profile for the individual based on one or more of the aspects of care, the expression of risk and the level of risk associated with the individual and (ii) assigning a subsequent program to the individual based on the profile. In contrast, no evidence or arguments are presented in the Office Action where any of the references allegedly teach or suggest a profile generator as presently claimed. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations. Claim 10 provides language similar to claim 1. As such, claims 1 and 10 are fully patentable over the cited references and the rejection should be withdrawn.

Claim 10 further provides wherein the second number (of values representing a level of risk) is greater than the first number (of answer options). In contrast, the Office Action provides no evidence that any of Brown, Bondy and/or Papageorge teach or suggest that a number of values representing a level of

risk is greater than a number of answer options as presently claimed. Claim 1 has been amended to include language similar to claim 10. As such, *prima facie* obviousness has not been established and the rejection of claims 1 and 10 should be withdrawn.

Claim 19 provides a step of displaying a plurality of icons of a plurality of questions, a plurality of answers and a plurality of follow-up actions. The Office Action cites FIG. 5 and the text in column 5 lines 52-62 of Brown, which read:

The script generator is designed to create a script program from the information entered in the script entry screen. The script program is executed by one or more of the remote apparatuses, as will be described in detail below. In the preferred embodiment, the script program includes display commands to display the queries and corresponding response choices entered in fields 94 and 96, respectively. The script program also includes input commands to receive responses to the queries. The script program further includes a collect command to collect device measurements from the monitoring device specified in check boxes 98.

The above text does not explicitly mention icons. Therefore, the Office is respectfully requested to either (i) clearly identify by figure reference number and/or the words in the above text allegedly similar to the claimed icons of follow-up actions or (ii) withdraw the rejection.

Claim 19 further provides a step of linking icons. The Office Action cites the text of Brown in column 5 lines 35-39, which reads:

The script entry screen further includes check boxes 98 for selecting a desired monitoring device from which to collect

measurements, such as a blood glucose meter, peak flow meter, or EKG.

The Office is respectfully requested to either (i) clearly identify the words in the above text allegedly similar to the claimed step for linking icons or (ii) withdraw the rejection.

Claim 19 further provides a step of converting the linked icons into a subsequent program. In contrast, the Office Action does not cite any part of Brown, Bondy or Papageorge in the rejection. As such, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations and the rejection of claim 19 should be withdrawn.

Claims 3 and 12 provide a language of an individual. The Office Action cites the text in column 4, lines 59-60 of Brown, which reads:

Each patient to be monitored is preferably associated with a respective one of the remote apparatuses.

The Office is respectfully requested to either (i) clearly identify the words in the above text allegedly similar to the claimed "language of an individual" or (ii) withdraw the rejections.

Claims 8 and 17 provide medical claims. Despite the assertion in the Office Action, figure 5 and paragraph 0048 of Mayer appear to be silent regarding "medical claims":

[0048] Chronic Disability Self Care Tool--This tool functions like the Acute Illness Self Care tool, except that the focus is on long term disabilities and chronic disease versus acute illnesses.



Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations and the rejection should be withdrawn.

Claims 2-9 and 11-18 depend from claims 1 and 10, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

Claim 20 depends from claim 19, which is now believed to be allowable. As such, the new claim is fully patentable over the cited references and should be allowed.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

#### **INTERVIEW SUMMARY**

Applicant's representative, John Ignatowski, spoke with Examiner Koppikar via telephone on April 11, 2007 and then again on April 24, 2007. The discussions concerned (i) the lack of answers to the traversals presented in the December 5, 2006 Amendment, (ii) the validity of the Mayer reference as prior art and (iii) the differences between claim 1 and claim 10. The Examiner agreed that, aside from a Notice of Allowance, a next Office Action would be a non-final action. Furthermore, if the Examiner maintains

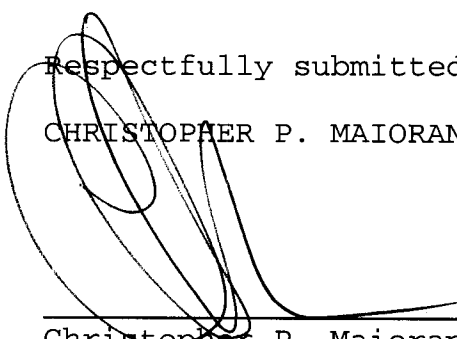
Mayer as a valid reference, a copy of the relevant sections of the Mayer provisional will be provided to the Applicant.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

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c/o Sandeep Jaggi  
Health Hero Network

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